IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 72 OF 2007
WITH
CIVIL APPLICATION NO. 130 OF 2007

Rajesh Namdev Bhargude ...Appellant

VERSUS

Rajashree Rajesh Bhargude ...
Respondent

Mr. S.R. Page for the Appellant

The Respondent present in person.

CORAM: **J.N. PATEL AND**
A.A. SAYED, JJ.

DATE: **AUGUST 6, 2007**
(at 3 p.m. in Chamber)

P.C.:-

Heard learned counsel for the appellant and the respondent in person. The appeal can be disposed of at the stage of admission.

2. We interviewed the parties and their children, along with their grand-parents.

3. In our presence, the children have expressed that they would like to reside with their father and carry on with their education. They have also expressed that they are happy to stay with their grand-mother, i.e., father' smother, who is now, unfortunately, a widow.

4. From the maternal side, the grand-parents have no objection. We have been informed that probably, the mother of the children has got an opportunity to re-settle in life, and she is likely to marry. The children are aware of it, and they have no grievance in the matter. Therefore, virtually, nothing survives in the appeal.

5. It is made clear by the husband and wife that the wife has filed a petition for divorce in the Family Court at Pune on the ground of cruelty. During the course of time, the parties may agree to go for divorce by mutual consent under Section 13-B of

the Hindu Marriage Act, 1955.

6. Insofar as the access is concerned, the parties have no objection if their natural mother has access to the children at the father's place where they are now going to reside. The respondent-wife, i.e., the mother of the children, is voluntarily handing over the custody of the children, Aishwarya, aged 13 years, studying in the VIIIth standard, and Deven, aged 9 years, now studying in the Vth standard, to the father. The husband-father states that he has already made suitable arrangements for their admission in the school at his place.

7. We accept the proposal, as we find that it is in the interest of the children, and further, that they are more than willing to reside with the appellant-husband-father.

8. In view of the aforesaid settlement between the parties, without examining the merits of the matter, we quash and set aside the impugned order, and allow the appeal, with no order as to costs.

9. Consequently, the Civil Application does not survive, and the same is accordingly disposed of.

J.N. PATEL, J.

A.A. SAYED, J.